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**APR 06 2007**

**OFFICE OF PETITIONS**

In re Application of	:	
Adair et al.	:	
Application No. 09/954,443	:	LETTER REGARDING
Filed: September 17, 2001	:	PATENT TERM ADJUSTMENT
Atty Docket No. 17244-0129	:	

This letter is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION" filed December 21, 2006, pursuant to applicants' duty of candor and good faith. Applicants disclose that the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is three hundred forty-four (344) days, not three hundred forty-five (345) days.

The request for correction of the initial determination of patent term adjustment (PTA) is GRANTED.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is three hundred forty-four (344) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On October 26, 2006, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 345 days. Applicants disclose that the period of delay caused by successful appellate review should run to the correct mailing date of the Final Decision by the Board of Patent Appeals and Interferences as stamped on the Decision, August 23, 2006, not August 24, 2006 as shown in PAIR.

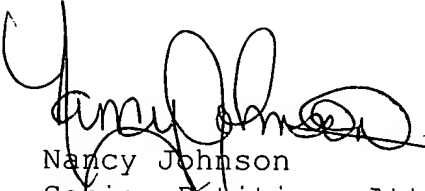
Applicants are correct. A review of the BPAI decision confirms that the correct date of the BPAI decision is August 23, 2006. Accordingly, the period of adjustment delay caused by successful appellate review, pursuant to 35 U.S.C. 154(b)(1)C(iii) and 37 CFR 1.702(e) is 548 days, not 549 days (e.g., beginning on February 22, 2005 and ending on August 23, 2006).

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is three hundred forty-four (344) days.

As this letter was submitted as an advisement to the Office of an error in Applicants' favor, the Office will not assess the \$200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson  
Senior Petitions Attorney  
Office of Petitions

Enclosure: Copy of Revised PAIR Screen

## PTA Calculations for Application: 09/954443

Application Filing Date:	09/17/2001	PTO Delay (PTO):	593
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	248
Post-Issue Petitions:	0	Total PTA (days):	344
PTO Delay Adjustment:	-1		

## File Contents History

Number	Date	Contents Description	PTO	APPL	START
84	04/01/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	548		
83	04/01/2007	ADJUSTMENT OF PTA CALCULATION BY PTO		549	
70	10/26/2006	MAIL NOTICE OF ALLOWANCE			
69	10/12/2006	ISSUE REVISION COMPLETED			
68	10/12/2006	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
67	10/12/2006	NOTICE OF ALLOWABILITY			
66	08/24/2006	MAIL BPAI DECISION ON APPEAL - REVERSED	549		45
65	08/23/2006	BPAI DECISION - EXAMINER REVERSED			
64	06/28/2006	CONFIRMATION OF HEARING BY APPELLANT			
63	05/11/2006	DOCKETING NOTICE MAILED TO APPELLANT			
62	05/09/2006	ASSIGNMENT OF APPEAL NUMBER			
61	04/13/2006	APPEAL AWAITING BPAI DOCKETING			
60	04/10/2006	MAIL REPLY BRIEF NOTED BY EXAMINER			
59	04/06/2006	REPLY BRIEF NOTED BY EXAMINER			
58	02/02/2006	REQUEST FOR ORAL HEARING			
57	02/08/2006	DATE FORWARDED TO EXAMINER			
56	02/02/2006	REPLY BRIEF FILED			
55	12/01/2005	MAIL EXAMINER'S ANSWER			
54	11/28/2005	EXAMINER'S ANSWER TO APPEAL BRIEF			
53	11/17/2005	DATE FORWARDED TO EXAMINER			
52	11/14/2005	APPEAL BRIEF FILED			
51	10/11/2005	NOTICE -- DEFECTIVE APPEAL BRIEF			
50	08/26/2005	DATE FORWARDED TO EXAMINER			
49.1	08/22/2005	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
49	08/22/2005	APPEAL BRIEF FILED			

48	07/21/2005	NOTICE -- DEFECTIVE APPEAL BRIEF			
47	05/31/2005	DATE FORWARDED TO EXAMINER			
46.1	04/18/2005	DEFECTIVE / INCOMPLETE APPEAL BRIEF FILED			
46	04/18/2005	APPEAL BRIEF FILED			
45	02/22/2005	NOTICE OF APPEAL FILED		90	37
44	03/03/2005	MAIL ADVISORY ACTION (PTOL - 303)			
43	03/02/2005	ADVISORY ACTION (PTOL-303)			
42	02/18/2005	DATE FORWARDED TO EXAMINER			
41	02/14/2005	AMENDMENT AFTER FINAL REJECTION			
40	02/14/2005	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			
39	02/14/2005	REQUEST FOR EXTENSION OF TIME - GRANTED			
38	02/14/2005	WORKFLOW INCOMING AMENDMENT IFW			
37	08/24/2004	MAIL FINAL REJECTION (PTOL - 326)			
36	08/23/2004	FINAL REJECTION			
35	06/30/2004	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
34	06/30/2004	DATE FORWARDED TO EXAMINER			
33	05/20/2004	RESPONSE AFTER NON-FINAL ACTION		64	30
32	05/20/2004	REQUEST FOR EXTENSION OF TIME - GRANTED			
31	05/20/2004	WORKFLOW INCOMING AMENDMENT IFW			
30	12/17/2003	MAIL NON-FINAL REJECTION			
29	12/12/2003	NON-FINAL REJECTION			
28	11/26/2003	DATE FORWARDED TO EXAMINER			
27	11/14/2003	REQUEST FOR CONTINUED EXAMINATION (RCE)		62	17
26	11/26/2003	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
25	11/14/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
24	11/14/2003	WORKFLOW - REQUEST FOR RCE - BEGIN			
23	10/24/2003	MAIL ADVISORY ACTION (PTOL - 303)			
22	10/23/2003	ADVISORY ACTION (PTOL-303)			
21	10/16/2003	DATE FORWARDED TO EXAMINER			
20	10/06/2003	AMENDMENT AFTER FINAL REJECTION			
19	10/06/2003	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			

18	10/06/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
17	06/13/2003	MAIL FINAL REJECTION (PTOL - 326)			
16	06/12/2003	FINAL REJECTION			
15	05/13/2003	DATE FORWARDED TO EXAMINER			
14	05/02/2003	RESPONSE AFTER NON-FINAL ACTION		32	12
13	05/02/2003	REQUEST FOR EXTENSION OF TIME - GRANTED			
12	12/31/2002	MAIL NON-FINAL REJECTION	44		-1
11	12/27/2002	NON-FINAL REJECTION			
10	01/16/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	03/15/2002	CASE DOCKETED TO EXAMINER IN GAU			
8	02/26/2002	TRANSFER INQUIRY TO GAU			
7	12/12/2001	APPLICATION DISPATCHED FROM OIPE			
6	12/11/2001	APPLICATION IS NOW COMPLETE			
4	10/15/2001	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
3	10/15/2001	CORRESPONDENCE ADDRESS CHANGE			
2	09/27/2001	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	09/17/2001	INITIAL EXAM TEAM NN			

Search Another: Application#

Search

**EXPLANATION OF PTA CALCULATION**

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Back to [PALM](#) | [ASSIGNMENT](#) | [OASIS](#) | [Home page](#)